

REMARKS

Claims 26-53 are pending in the present application.

At the outset, Applicants note the Examiner has indicated that the Office has not considered all of the references cited on the IDS filed on November 30, 2001, because in the opinion of the Examiner the IDS is incomplete since "it contains no copies of foreign patent documents and non-patent literatures." However, pursuant to 37 C.F.R. §1.98(d) Applicants are under no obligation to provide copies of any patent, publication, pending U.S. application, or other information that was submitted in an earlier application when the earlier application is properly identified in the IDS and is the basis for priority under 35 U.S.C. §120 and the IDS submitted in the earlier application is compliant with paragraphs (a) to (c) of 37 C.F.R. §1.98(d). Therefore, the failure to consider the references cited on the IDS filed on November 30, 2001 is an error on the behalf of the Office.

Nonetheless, in order to ensure expedient examination, Applicant **submit herewith** a copy of the IDS filed on November 30, 2001, and copies of all the cited references. However, in view of the Office's error in not properly handling the IDS filed on November 30, 2001, and the Office's failure to obtain copies of the foreign patent documents and non-patent literature from the parent application, Applicants have not paid a fee for entry of the enclosed copy of the IDS filed on November 30, 2001. Applicants request acknowledgment that the cited references have been considered.

The objections to the specification are obviated in part by amendment and traversed in part.

Consistent with the Examiner's request, all designations of "SEQ ID NO. \_" have been replaced with "SEQ ID NO: \_." In addition, all disclosed sequences are identified by the proper sequence identifier.

In regard to the Examiner's specific criticism of page 8, line 25, Applicants direct the Examiner's attention to the Preliminary Amendment filed on November 30, 2001 in which the sequence identifiers were added. Therefore, no further amendment is necessary.

Withdrawal of these objections is requested.

The objection to the claims, as well as the rejection of Claims 26-53 under 35 U.S.C. §101 are obviated by amendment.

Applicants make no statement in regard to the propriety of this objection and rejection. However, to ensure expedient examination, Applicants have amended the claims, largely, in accordance with the Examiner's suggestions. This amendment in no way indicates acquiescence to the Examiner's criticisms.

Applicants request withdrawal of these grounds of objection and rejection.

Finally, in regard to the double patenting rejections over U.S. 6,013,498 and U.S. 6,538,122, Applicants have amended the independent claims (Claims 26, 33, 34, and 49) to recited "an isolated DNA." Accordingly, the scope of the claimed invention is now narrower than the corresponding claims in U.S. 6,013,498 and U.S. 6,538,122. As such, the double patenting rejection is no longer valid.

Nevertheless, Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c), disclaiming the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory term as

presently shortened by any terminal disclaimer of U.S. 6,013,498 and U.S. 6,538,122.

Accordingly, Applicants believe that this ground of rejection is no longer at issue and should be withdrawn. Acknowledgement to this effect is requested

Accordingly, Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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